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MAR 23 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 23, 1998

Via Hand Delivery

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: Notice of Ex Parte Communication
Aliant Communications Co.
Competitive Service Safeguards for Local Exchange Carrier Provision of CMRS
WT Docket No. 96-162

Dear Ms. Salas:

On behalf of Aliant Communications Co. ("Aliant"), I had a meeting today with Commission staff to discuss issues in the above-referenced proceeding. The meeting was with Karen Gulick of Commissioner Tristani's office. The views expressed by Aliant in those meetings are summarized in the attached memorandum, which was distributed at both meetings.

In accordance with Section 1.1206 of the Commission's Rules, an original and one copy of this filing are being submitted today. Please direct any questions regarding this matter to undersigned counsel.

Very truly yours,

Michael K. Kurtis

Attachment

cc (w/o attachment): Mr. Robert Tyler
Ms. Karen Gulick

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List A B C D E

ALIANT COMMUNICATIONS CO. – DISCUSSION POINTS

Reconsideration of the Amendment of the Commission's Rules to Establish Competitive Service Safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Services, WT Docket No. 96-162, Report and Order, rel. Oct. 3, 1997.

- Aliant is engaged in the local exchange telephone business, serving customers in 22 of 93 counties in Nebraska. Since 1987, Aliant has also been the licensee of the wireline cellular authorization for the Lincoln, Nebraska MSA. At that time, the economies of scale of establishing the cellular operation within the LEC allowed Aliant to introduce service to the public more quickly and economically than a separate structural affiliate could have been implemented. Aliant has retained this permissive structure for the past decade, as its cellular operations have matured and increased in value. Significantly, it is one of a very few, if not the only, incumbent LEC which holds cellular wireline licenses without a separately structured affiliate.

- The above-referenced R&O requires mid-sized LECs such as Aliant to establish a structurally separate affiliate for their CMRS operations. Aliant does not take issue with either the underlying basis for the Commission's rule change or the actual requirement of establishing a structurally separate affiliate to hold and operate the in-region cellular systems of incumbent LECs. In order to comply with this requirement, however, Aliant must conduct an affiliate transaction pursuant to Section 32.27(c) of the Commission's rules. Section 32.27(c) requires that affiliate transactions such as the one necessary to comply with the separate CMRS affiliate requirement be recorded at fair market value, rather than at book value. The R&O, however, is silent with respect to the costs and potential adverse impact which will result if an incumbent LEC is required to spin-off a mature cellular system and record that transaction at fair market value.

- Aliant will incur substantial tax liabilities if it is forced to spin-off its CMRS holdings to an affiliate at fair market value. While the realization of such a gain could be deferred, the potential adverse impact at the time such a gain is realized would have a significant impact on a company the size of Aliant. No such harm would occur to Aliant if it were permitted to record the transfer of its CMRS assets at book value.

- The R&O was not intended to punish companies such as Aliant that lawfully kept their CMRS holdings within a regulated entity. Ironically, although the purpose of the R&O is to afford more equitable treatment to CMRS carriers, if Aliant is not allowed flexible accounting treatment, it will be singled out and penalized as a result of this Commission-mandated transaction.

- On reconsideration, the Commission should amend the R&O to provide that any affiliate transaction necessary for compliance with the R&O's terms may be recorded at book value, rather than at fair market value as required by Section 32.27(c). This action would ensure that entities such as Aliant are not penalized for having an atypical corporate structure.

- Further, in the context of payphone asset transfers, one-time transfers mandated by industry reform have been allowed to be recorded at book value, subject to certain conditions. See Illinois Public Telecommunications Association v. FCC, 117 F.3d 555 (D.C. Cir. 1997) ("IPTA"); and Democratic Cent. Comm. of the Dist. of Columbia v. Washington Metro Area Transit Comm'n, 455 F.2d 786 (D.C. Cir. 1973), cert. denied, 415 U.S. 935 (1974) ("Democratic Central"). In these cases, the court concluded that when shareholders bore the risk of loss of the assets being transferred, rather than ratepayers, shareholders should be entitled to any capital gain on the assets. Such is the case with Aliant, whose shareholders bore the risk of loss associated with its CMRS operations. Therefore, if the FCC chooses to limit book value treatment consistent with IPTA, such limitation would be sufficient for Aliant to avoid penalty.